

In re) Fair Hearing No. 15,446
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Appeal of)

The petitioner appeals a decision by the Department of Social Welfare to reduce her shelter allowance for purposes of calculating her ANFC grant. The issue is whether the petitioner actually incurred shelter expenses during the month at issue.

1. The petitioner receives ANFC for herself and a teenage daughter. She also receives income in the form of \$365 per month in child support and a \$50 per month "passalong" from the child support office because her support is paid regularly every month. Last Fall (September, October, and November of 1997) her ANFC grant payment was delayed for a few months, she says due to the incompetence of the worker, the Department says due to her failure to report accurate information about her situation. In any event, the ANFC grant, which was then \$193 per month, was paid retroactively for those three months in December of 1997, but by the time the payments came in, the petitioner's landlord had commenced eviction proceedings against her for non-payment of rent.

2. The petitioner, who is assigned to Group 3 status,

was required to participate in job search activities. Because she felt she would need to move and that the move might take her out of the area, she did not look for employment. On February 13, 1998, the petitioner was notified that she would be sanctioned effective March 1, 1998, for failure to comply with job search requirements. The sanction meant that she would no longer receive her child support directly but that an ANFC grant would be issued to her in the combined amount of her usual ANFC grant and child support payment. That grant would in turn be vendored directly to the suppliers of her housing, fuel and utilities. In March of 1998, the petitioner received an ANFC grant for \$508, instead of \$193 (plus the usual \$50 passalong). From that amount the Department directly vendored only her electric bill.

3. During the course of the eviction proceedings, the petitioner paid \$1,000 of her rent money into court. The money due during this time was \$2500. Although the petitioner had received enough from ANFC and child support to escrow her entire rent, she chose to spend some of the rent money for other bills. This was partly because she was convinced the landlord would not accept the money and would try to evict her anyway. When the case came to hearing on March 5, 1998, she was evicted for non-payment of rent and a judgment against her for the rest of the rent and court and attorney's fees was entered. A writ of possession was

issued for March 31, 1998.

4. On March 27, 1998, the petitioner vacated her apartment and moved to another part of the state. She asked for General Assistance with moving but was denied because she had been evicted for non-payment of rent. She did not appeal that GA decision and does not contest it now.

5. The petitioner found housing in another section of the state which consisted of caretaking a summer home for which she was not required to pay any rent, fuel or utilities. Because she had no rental or utilities obligation, the Department took the shelter allowance (it had been \$363 per month) out of her ANFC grant and paid her \$318 per month for April 1998. That amount was \$3.00 more than she was receiving in child support (\$315 after the \$50 pass-along was taken out) so she was able to retain her ANFC eligibility although the vendoring sanction remained intact. Because she had no utilities to vendor as part of her sanction, she received the entire amount of the ANFC check, minus the shelter allowance.

6. At the end of April 1998, the owners of the summer home which the petitioner had been caretaking returned and she had to move again on April 24, 1998. She found an apartment in another town and asked the Department to assist her again with moving expenses. This time the Department agreed to assist her because she was not at fault in losing her housing and paid a security deposit equal to one month's

rent and the first month's rent for May of 1998, for a total of \$920. The Department will get the security deposit back if the petitioner performs her rental obligation.

7. Because the petitioner had begun cooperating with her job search requirements and because she now had a regular shelter obligation to pay, in May of 1998, the petitioner began to receive her child support directly again and her grant was increased to reflect her new shelter allowance of \$318.15 per month, which resulted in an ANFC grant of \$318. The Department points out that she received a full shelter allowance in her ANFC grant for May 1998, even though GA paid her rent for that month.

8. The petitioner feels that the Department should restore her shelter allowance for April of 1998, because she had housing expenses at the end of April not paid for by GA including the cost of gasoline needed to move, food for friends who helped her move, cleaning supplies and curtains.

She also feels the Department should pay her "damages" in connection with her move in March (including court and attorneys fees) since she says the Department caused her need to move by delaying her checks. That move entailed considerably more expense in transporting and storing her furniture than the last move which was a shorter distance. However, she offered no estimates or evidence of the amounts involved. She was not happy about the imposition of the sanction in March and April of 1998, but agrees that she did

not lose any money as a result and that the only detriment which occurred to her on that account was the Department's direct payment of her electric bill in March from her ANFC grant.

ORDER

The decision of the Department is affirmed.

REASONS

The Board has no authority under statute to award "damages" to petitioners who claim they have suffered as a consequence of the Department's actions. See 3 V.S.A. § 3091. Even if it had such authority, the petitioner has not clearly demonstrated either what her damages were or that they were not caused, or at least contributed to, by her own failure to act, such as her failure to pay all of her rent into escrow in the eviction proceeding. In any event, the Board cannot even consider that question because it has only those powers conferred by statute which does not include this claim for relief.

With regard to the sanction imposed for failure to cooperate with job search, it must be concluded that as the petitioner did not suffer a diminution in benefits due to this sanction and as the sanction has now been removed the matter is moot. There is no relief that the Board can grant her now with regard to the justice or injustice of the

imposition of this sanction.

The only matter upon which the Board could grant relief¹ in this appeal is the removal of the shelter expenses from the calculation of her ANFC grant for the month of April 1998. The regulations provide a housing allowance as follows:

Housing expense is defined as the total of all verified costs incurred for any of the following: rental (house, apartment, lot), real estate (or equivalent personal property) taxes, maintenance and repairs, and mortgage payments. . . Housing allowances shall be budgeted "as incurred" to cover recurring shelter expenses necessary to maintain a home, not to exceed the current maximums stated below.² The housing allowance portion of an ANFC grant is limited to expenses incurred for the current month. . .

When housing is provided in full (i.e. at no cost) and is considered unearned income-in-kind, no housing allowance and no unearned income are budgeted. . .

W.A.M. 2245.3

The above regulation mandates provision of a housing expense allowance only for expenses directly associated with keeping the shelter property, not for expenses related to moving or setting up housing. The petitioner did not have any expenses for housing as defined in the above regulation for April of 1998. Her housing and utilities were provided

¹ The petitioner did not indicate that she was appealing the initial denial of GA in March of 1998, which the Board could have also considered here. The evidence with regard to any claim that might be made there was insufficiently developed to make any decision on that matter. The petitioner could, if she wishes, file a separate appeal on that matter.

² The maximum outside Chittenden County is \$363 per month.

in full in the home she was caretaking and she incurred no expense for them. As she incurred no expense, she cannot receive a housing allowance under the above regulation.

The petitioner argues that she did incur a housing expense for her new apartment at the end of April 1998. The facts do not make clear whether any of her obligation for that apartment actually began in April or on May 1, 1998. However, even if it did start to fall due in the last week of April, the petitioner admits that her obligation was paid by the Department through the General Assistance program, making her claim against the same agency at this point highly tenuous, if not disingenuous. In addition, ANFC budgets are calculated on a prospective, not a retroactive basis, that is, grants are paid out for the coming month based on information provided by recipients as to their current expenses or best information as to what will happen in the next month. W.A.M. 2216.1 The information given by the petitioner to the Department in anticipation of the month of April was that she had no housing expenses. As such, it cannot be concluded that the Department erred under its regulations in not providing a shelter expense for her in April. Neither could it be said as a practical matter that the petitioner has been put in a disadvantaged position by the operation of the regulations since she has gotten her rent paid for through GA for the month of May, 1998 as well as a shelter allowance for that same month. The decision of

the Department, must, therefore, be affirmed.

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